



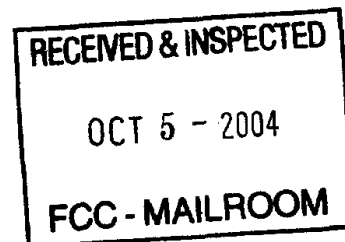
COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

October 4, 2004

VIA OVERNIGHT MAIL

Marlene H. Dortch,  
Secretary  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743



Re: In the Matter of Unbundled Access to Network Elements  
WC Docket No. 04-313

Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers  
CC Docket No. 01-338

Dear Ms. Dortch:

Pursuant to the request of the Federal Communications Commission for copies of state records initiated under the *Triennial Review Order*, enclosed for filing please find:

(1) Four copies of the CD-ROM containing the public version of the Pennsylvania Public Utility Commission evidentiary record in our "9-Month" proceeding. This CD-ROM includes an index of the documents included, and

(2) Request for Waiver.

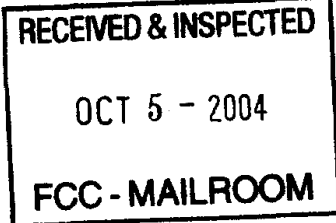
We note that Comments of the Pennsylvania Public Utility Commission in response to the pending Notice of Proposed Rulemaking were electronically filed with the FCC on Monday, October 4, 2004.

Sincerely,

Patricia T. Wiedt  
Assistant Counsel  
Pennsylvania Public Utility  
Commission

No. of Copies rec'd \_\_\_\_\_  
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Before the  
Federal Communications Commission  
Washington, D.C. 20554



IN THE MATTER OF )

*Unbundled Access to Network Elements* )

WC Docket No. 04-313

*Review of the Section 251 Unbundling  
Obligations of Incumbent Local Exchange  
Carriers* )

CC Docket No. 01-338

**WAIVER REQUEST OF THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION**

The Pennsylvania Public Utility Commission (PA PUC) respectfully submitted initial comments electronically in response to the August 20, 2004 released *Order and Notice of Proposed Rulemaking (Interim Order and NPRM)*, FCC 04-179, 69 Federal Register 55128 (September 13, 2004) seeking input on a variety of issues related to the development of final network unbundling rules.

The PA PUC also respectfully requests any waivers necessary to file evidence from its State TRO proceeding in CD-ROM format only. An index of the record is also included with this document and is on each CD-ROM.

The CD-ROMS will be available for inspection at the FCC's headquarters.

**REQUEST FOR WAIVER OF FILING REQUIREMENTS**

Due to the voluminous nature of the *TRO* proceedings' records, and the cost and time associated with duplicating and filing same, the PA PUC respectfully requests a waiver pursuant to FCC rule 1.3<sup>1</sup> of the filing requirements in FCC rules 1.51 and 1.419<sup>2</sup> to allow it to file its *TRO* proceedings' records in CD format only. Finally, and also for the same reasons, the PA PUC requests a waiver of paragraph 33 of the *NPRM* in order to

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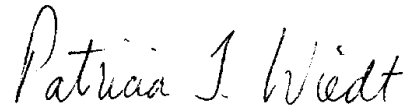
<sup>1</sup> 47 C.F.R. § 1.3 (2004).

<sup>2</sup> 47 C.F.R. §§ 1.51 and 1.419 (2004).

allow it to file its comments using the FCC's ECFS system, but without having to upload and attach all of the documents on the CDs.

Pursuant to FCC rule 1.3, the Commission may waive its rules for good cause. Good cause may be found when special circumstances exist to warrant a deviation from the general rule<sup>3</sup>, or where circumstances make strict compliance inconsistent with the public interest.<sup>4</sup> In this matter, good cause exists simply based on the sheer volume, time, and expense involved with submitting the PA PUC's *TRO* proceedings' records in paper format.

RESPECTFULLY SUMITTED,



Patricia T. Wiedt  
Assistant Counsel  
Attorney ID No. 79342

Frank B. Wilmarth  
Deputy Chief Counsel

Bohdan R. Pankiw  
Chief Counsel

Counsel for Pennsylvania Public  
Utility Commission

P.O. Box 3265  
Harrisburg, PA 17105-3265  
Tel: (717) 787-5000

Dated: October 4, 2004

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<sup>3</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert denied* 409 U.S. 1027 (1972).

<sup>4</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166.

## INDEX OF RECORD EVIDENCE

*Title and date of document* - listed chronologically on this page .....(Label of document on CD-ROM)

Please note that document labels listed on CD-ROM appear alphabetically on the CD-ROM.

1. *RCN's Responses to Request for Information November 13, 2004*  
.....(RCN Discovery Requests)
2. *Answer to Verizon's Petition to Initiate Proceedings, Answer to PUC Preliminary Data Requests and Comments of Allegiance Telecom of Pennsylvania, Inc. November 14, 2003.....*(Allegiance Telecom Comments)
3. *Responses of Talk America, Inc. to Commission Preliminary Discovery Requests November 14, 2003.....*(talkamerica)
4. *Response of Sprint Communications Company, L.P. to the Questions Propounded by the PA PUC November 14, 2003.....*(Sprint Response to Discovery Requests)
5. *Appendix A CEI Networks Inc. November 17, 2003.....*(CED Discovery Requests)
6. *Responses of Metro Teleconnect Companies Inc. to the Commission's October 2, Procedural Order December 2, 2003.....*(Metro Teleconnect)
7. *Choice One Communications of Pennsylvania Inc. Direct Testimony January 9, 2004.....*(Choice One testimony)
8. *Direct Panel Testimony Peter Karoczkai of ARC Communications Corp. and Michael Hou of Broadview Networks Inc. January 9, 2004.....*(CLEC Coalition Karoczkai & Hou Testimony)
9. *Direct testimony of Rebecca H. Sommi on behalf of ARC Networks Inc. January 9, 2004.....*(CLEC Coalition Sommi Testimony)
10. *Direct testimony of Joseph Gillan January 9, 2004.....*(CLEC Coalition Gillan Direct)
11. *Penn Telecom Inc. Statement No. 1.0 Witness Wayne Meyers January 20, 2004.....*(Penn Telecom St. 1)
12. *Rebuttal Testimony of Joseph Gillan January 20, 2004.....*(CLEC Coalition Gillan Rebuttal Testimony)
13. *Snip Link LLC Hearing Exhibit I January 28, 2004....*(Snip Link Ex.1)
14. *Initial Hearing Incumbent Local Exchange Carriers Investigation into the obligations of incumbent local exchange carriers to unbundled network elements Monday, January 26, 2004 [note pages 1-30 omitted since contained only procedural preliminary hearing matters] ..... (1/26/04 Hearing pg 30-249), (1/26/04 Hearing pg 130-249)*
15. *Further Hearing Tuesday, January 27, 2004.....*(1/27/04 Hearing pg 250-373), (1/27/04 Hearing pg 374 -517)
16. *Further Hearing Wednesday January 28, 2004.....*(1/28/04 Further Hearing)
17. *Main Brief of the Office of Trial Staff February 12, 2004.....*(OTS Main Brief)

18. *Main Brief of the Office of Small Business Advocate February 17, 2004.....*(OSBA Main Brief)
19. *Main Brief of Sprint Communications Company, L.P. February 17, 2004.....*(Sprint Main Brief)
20. *Main Brief of the Loop/Transport Carrier Coalition February 17, 2004...* (LTCC Main Brief)
21. *Main Brief of AT&T Communications of Pennsylvania, LLC. February 18, 2004 .....*(AT&T Main Brief)
22. *Main Brief of the Office of Consumer Advocate February 19, 2004.....*(OCA Main Brief)
23. *Main Brief of the CLEC Coalition February 17, 2004.....*(CLEC Coalition Main Brief)
24. *Post-Hearing Brief of Cavalier Telephone Mid-Atlantic LLC February 19, 2004.....*(Cavalier Post Hearing Brief)
25. *Reply Brief of Sprint Communications Company LP March 1, 2004...* (Sprint Reply Brief)
26. *Reply Brief of CLEC Coalition March 1, 2004.....*(CLEC Coalition Reply Brief)
27. **Summary of Record Evidence of the PA PUC before Administrative Law Judge Michael C. Schnierle June 24, 2004 .....**(ALJ Schnierle **Summary of Record Evidence**)
28. *Comments of Verizon Pennsylvania Inc. and Verizon North Inc. on Summary of the Record July 23, 2004.....*(Verizon Comments)
29. *AT&T Communications of Pennsylvania LLC's Comments Concerning the Summary of the Record Evidence July 26, 2004.....*(AT&T Comments)
30. *Comments of Sprint Communications Company LLP to Summary of the Record Evidence July 26, 2004.....*(Sprint Comments)

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

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- o Other materials which, for one reason or another, could not be scanned into the ECFS system.

The actual document, page(s) or materials may be reviewed (**EXCLUDING CONFIDENTIAL DOCUMENTS**) by contacting an Information Technician at the FCC Reference Information Centers) at 445 12<sup>th</sup> Street, SW, Washington, DC, Room CY-A257. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician

5 CD ROM